

**City of Bells**

**Ordinance No. # 020216**

**BELLS REGULATIONS OF FOOD ESTABLISHMENT ORDINANCE**

**AN ORDINANCE OF THE CITY OF BELLS, TEXAS REGARDING THE REGULATION OF FOOD ESTABLISHMENTS INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS; ADOPTING BY REFERENCE THE TEXAS FOOD ESTABLISHMENT RULES; PROVIDING FOR SAVINGS AND SEVERABILITY CLAUSES, REPEALING CORDINANCE NO. 207 AND ANY OTHER ORDINANCE IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR A PENALTY NOT TO EXCEED \$2000 FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS:** the City of Bells is a Type A General law Municipality located in Grayson County created in accordance with provisions of the Texas Local Government code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS:** the Texas Health and Safety Code authorizes a Type A General law municipality to adopt ordinances and administer a permit system regulating food establishments; and

**WHEREAS:** the City Council desires to adopt revised Texas food Establishment Rules, as amended, approved by the Texas Department of State Health Services so that the City can undertake health inspections of establishments serving food; and

**WHEREAS:** the City Council previously adopted Ordinance No. 207 regulating food establishments within the City and the City Council has determined that it is in the best interest of the citizens of the City to repeal Ordinance No. 700 and adopt an ordinance that establishes current regulations for certain food establishments and vendors as permitted by state law; and

**WHEREAS:** the City intends to contract with a third party for such food service inspection services; and

**WHEREAS:** the City Council finds that the adoption of the regulations provided herein promotes the health and safety of its citizens and visitors to the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLS, TEXAS:**

## **Section 1. Adoption of Texas Food Establishment Rules**

A. The City of Bells adopts by reference as though fully set forth in this Section the provisions of the Texas food Establishment Rules, as amended, approved by the Texas Department of State Health Services and found in 25 Texas Administrative Code, Chapter 228, to the extent applicable within the City of Bells.

B. Definition:

The words "authorized agent or employee" mean the employees of the regulatory authority.

The words "food establishment" mean a food service establishment, a retail food store, a mobile food unit, and/or a roadside food vendor.

The word "person" means any person, agent, firm, corporation, entity or association.

The words "state rules" mean the state rules found at 25 Texas Administrative Code, Chapter 228, as amended. These rules are also known as the Texas food Establishment Rules.

The words "regulatory authority" means the health department of Grayson County, Texas.

## **Section 2. Permits and Exemptions**

- A. A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be posted in or on every food establishment regulated by this ordinance.
- B. A food establishment operated solely by a nonprofit organization shall be exempt from fees but must have a permit required of this Ordinance, and is not exempt from compliance with state rules. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.

## **Section 3. Application for Permit and Fees**

- A. Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment, and the applicable fee. The application shall be accompanied by a fee in the amount established by the regulatory authority. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or

revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.

- B. Prior to the approval of an initial permit or the renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with state rules and other law. A food establishment that does not comply with state rules and other law will be denied a permit or the renewal of a permit.

#### **Section 4. Review of Plans**

- A. Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the regulatory authority for review before work is begun. Extensive remodeling means that 20% or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specifications will be approved by the regulatory authority if they meet the requirements of the state rules and other law. The approved plans and specifications must be followed in construction, remodeling or conversion.
- B. Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

#### **Section 5. Food Sanitation Training**

- A. No person shall operate a food establishment unless the manager of the establishment, or if multiple shifts are worked, the manager of each shift has a valid current food service manager's certificate issued by the regulatory authority certifying that the bearer has completed the food sanitation program for managers approved by the regulatory authority.
- B. It shall be unlawful for the owner, operator, or manager of any food establishment to employ or allow any food handler to work therein unless such food handler has the permit required by this section, or an approved food handler permit.

#### **Section 6. Suspension of Permit**

- A. The regulatory authority may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required by this section. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within twenty (20) days of receipt of a request for a hearing.

- B. Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed the regulatory authority by the holder of the permit within the (10) days. If no written request for hearing is files within ten (10) days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

### **Section 7. Revocation of Permit**

- A. The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of state rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, or the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is files with the regulatory authority by the holder of the permit with such ten (10) day period.
- B. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.

### **Section 8. Administrative Process**

- A. A notice as required in this Ordinance is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.
- B. The hearings provided for in this Ordinance shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.

### **Section 9. Remedies**

- A. Any person who violates a provision of this Ordinance and any person who is the permit holder of or, otherwise operates a food service establishment that does not comply with the requirements of state rules and any responsible officer of that permit holder or those persons shall be fined not more than \$2000.00 dollars.

- B. In addition to the remedies provided in this Section, the regulatory authority may seek to enjoin violations of this ordinance.

### **Section 10. Severability**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect.

City of Bells hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

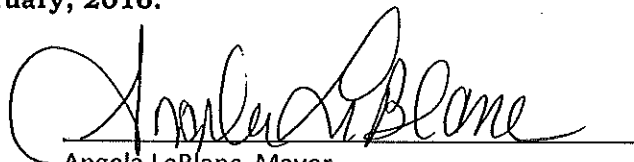
### **Section 11. Savings/Repealing Clause**

All provisions of Ordinance No. 207 adopted 1/5/1988 and any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

### **Section 12. Effective Date**

This Ordinance shall become effective from and after its adoption and publication as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF BELLS, TEXAS on this 2<sup>ND</sup> day of February, 2016.**

  
Angela LeBlanc, Mayor

ATTESTED TO:

  
Joanna Duevel, City Secretary